

## Agency 110

# Kansas Department of Commerce

### Editor's Note:

Effective July 1, 2003, Executive Reorganization Order No. 30 separated the Kansas department of commerce and housing into the Kansas department of commerce and the Kansas department of housing. Except with respect to the powers, duties, and functions that are transferred by this order to the Kansas development finance authority or to the division of housing within the Kansas development finance authority, the department of commerce established by this order shall be the successor in every way to the powers, duties and functions of the department of commerce and housing in which such powers, duties and functions were vested prior to the effective date of this order.

### Articles

- 110-4. INVESTMENTS IN MAJOR PROJECTS AND COMPREHENSIVE TRAINING (IMPACT) ACT.
- 110-6. HIGH PERFORMANCE INCENTIVE PROGRAM.
- 110-12. AGRITOURISM PROMOTION ACT.
- 110-21. PROMOTING EMPLOYMENT ACROSS KANSAS (PEAK) PROGRAM.
- 110-22. STUDENT LOAN REPAYMENT PROGRAM.

### Article 4.—INVESTMENTS IN MAJOR PROJECTS AND COMPREHENSIVE TRAINING (IMPACT) ACT

**110-4-1. Definitions.** As used in these regulations and for purposes of administering the IMPACT act, the following terms shall have the following meanings: (a) “Department” means department of commerce.

(b) “Existing job” means a job of an employer meeting the following criteria:

(1) Has the same or similar description, or involves performing the same or a similar function as that for a job being created by that employer; and

(2) was filled or in use within the 18 months before the date of filing an application with the secretary for funding from the IMPACT program services fund, unless the job was lost due to an act of God and the secretary finds that the IMPACT program or project will be a major factor for the Kansas basic enterprise to remain in Kansas.

(c) “Maximum funding amount” means the maximum dollar amount for which a qualified project would be eligible under the IMPACT act, assuming that sufficient funds exist to fund the maximum dollar amount permitted for all qualified projects as determined by the secretary according to K.A.R. 110-4-2(c).

(d) “MPI” means major project investment as

defined in K.S.A. 74-50,103 and amendments thereto.

(e) “Project cost” for a qualified project means the total of program costs and the cost of program services as these terms are defined by K.S.A. 74-50,103 and amendments thereto.

(f) “Qualified project” means any project described in an application that has been determined by the secretary to be complete, in compliance with the funding limitations set forth in the IMPACT act, and qualified for funding from the IMPACT program services fund. (Authorized by and implementing K.S.A. 2009 Supp. 74-50,104; effective, T-110-3-27-92, March 27, 1992; effective, T-110-7-23-92, July 23, 1992; effective Sept. 8, 1992; amended Aug. 29, 1997; amended, T-110-5-31-01, May 31, 2001; amended Sept. 21, 2001; amended Jan. 28, 2011.)

### **110-4-2. Review standards and priorities for approval of proposed agreements; limits on program costs and on project and program size.**

(a) Each proposal for an agreement concerning a SKILL project or a combined SKILL project and financial assistance through an MPI shall be submitted by an employer to the secretary. Each proposal for an agreement concerning only financial assistance through an MPI shall be submitted by an employer to the secretary. Each proposal shall be submitted as an ap-

plication on a form provided by the secretary. Each proposal shall include the following, as applicable:

- (1) General information, as follows:
  - (A) The project start and end dates;
  - (B) the employer's legal name;
  - (C) the employer's code designation according to the "North American industry classification system" (NAICS), as established by the executive office of the president, office of management and budget, dated 2007;
  - (D) a description of the employer's business operation or industry;
  - (E) the employer's federal taxpayer identification number;
  - (F) the name and title of the employer's designated contact person;
  - (G) the electronic mail address of the employer's contact person;
  - (H) the employer's mailing address;
  - (I) the address of the project facility;
  - (J) the phone number and fax number of the contact person;
  - (K) the total number of existing jobs in the state, including annual average wage;
  - (L) the estimated capital investment;
  - (M) the projected number of new jobs and retrained jobs, including annual average wage;
  - (N) the performance percentage of the new and retrained jobs;
  - (O) a description of the type of training;
  - (P) a summary of the benefits package offered by a company; and
  - (Q) the anticipated hiring schedule for all positions;
- (2) a description of the company's business operations, including the following:
  - (A) A company overview, including a brief company history and current information;
  - (B) a summary of the financial condition of the company; and
  - (C) a description of type of products or services;
- (3) if a company will be using a Kansas educational institution for direct services, the following information for each participating institution:
  - (A) The name of the educational institution;
  - (B) the educational institution's address;
  - (C) the name and title of the contact person;
  - (D) the phone number and fax number of the contact person;
  - (E) the electronic mail address of the contact person;

- (F) the federal identification number;
- (4) for any proposal that includes a SKILL project, information relating to the new jobs or retrained jobs, as follows:
  - (A) A summary of the type of training or instruction to be provided to each trainee;
  - (B) the number of hours of instruction for each trainee by course area or title;
  - (C) the salaries of instructors, including the number of hours of instruction and hourly rates;
  - (D) the costs of adult basic education and job-related instruction;
  - (E) the costs of vocational and skill-assessment services and testing;
  - (F) the costs for lease of training equipment, including the costs of installation;
  - (G) the costs to the educational institution for purchase of training equipment, including the costs of installation;
  - (H) the costs of training materials and supplies;
  - (I) the costs of services with educational institutions, federal, state, or local agencies, vendors, or consultants;
  - (J) the costs of contractual or professional services;
  - (K) the training curriculum planning and development costs;
  - (L) the costs of textbooks, manuals, audiovisual materials, or other training aids;
  - (M) the travel expenses of trainers or trainees;
  - (N) the costs of temporary training facilities;
  - (O) the amount, if any, of tuition, student fees, or special charges included in the project costs;
  - (P) the total estimated project costs;
  - (Q) the amount of project costs proposed to be paid by the employer, by the educational institution, and by federal, state, or other public or private grants;
  - (R) the amount of project costs requested to be paid from the IMPACT program services fund; and
- (5) for any proposal that includes a request for financial assistance through an MPI, information relating to the financial assistance requested as follows:
  - (A) An itemization of the business costs to be paid through an MPI, and the estimates of these business costs;
  - (B) background information relating to the undertaking and an explanation of how the financial assistance provided through an MPI will con-

tribute to the relocation of the employer in the state; and

(C) if the proposal includes only a request for financial assistance through an MPI, an explanation of the training or education programs to be undertaken or funded by the employer for its employees each year during the term of the agreement, with evidence demonstrating that the employer will meet the minimum training and education requirement in K.S.A. 74-50,106(d)(1), and amendments thereto; and

(D) for all proposals, any other information deemed necessary by the secretary.

(b) Each application shall be reviewed by the secretary for completeness and compliance with the funding limitations in the IMPACT act. Additional data may be requested by the secretary to verify the accuracy and completeness of the information in an application. The review of each application shall be completed by the secretary within 30 days of the date a complete application is filed.

(c)(1) The best method of funding the qualified projects shall be determined by the secretary and the funding requirements of part or all of two or more qualified projects may be pooled to facilitate the issuance of bonds by the Kansas development finance authority. One or more qualified projects may be funded from amounts on deposit or anticipated to be on deposit in the IMPACT program services fund that are not required to be used to pay program costs for other qualified projects.

(2) The maximum funding amount for any qualified project may be funded in more than one increment as may be necessary to accommodate the needs, funding resources, and limitations of the IMPACT program. However, the sum of these increments shall not exceed the maximum funding amount for the qualified project. The determinations by the secretary as to whether a qualified project will be funded in increments and the amount of these increments shall be made on the basis of the considerations listed in subsection (d).

(d) The following factors shall be used to determine whether a qualified project should be funded and the amount of the funding. If two or more qualified projects compete for limited funds, these same factors shall be applied to determine the level of funding for each project:

(1) The per capita cost of training expenses to be funded from the IMPACT program services fund;

(2) the amount of funds used to pay project costs from sources other than funds from the IMPACT program services fund;

(3) the local economic needs and the impact of the project, including current local employment conditions, resultant new economic activity, the project schedule, leveraging of other resources, beneficial impact on the tax base and project feasibility, as well as the probability that the project will accomplish the projected benefits;

(4) the quality of jobs to be created, with priority given to those full-time jobs that have a higher wage scale, higher benefit levels, a low turnover rate, an opportunity for career development or advancement, or other related factors;

(5) the extent to which the project is being coordinated with other projects of that applicant or other applicants to be funded from the IMPACT program services fund. Priority shall be given to projects that are able to share training facilities, instructors, training equipment, and other program services;

(6) the extent to which the project or components of the project do not duplicate existing training resources;

(7) the extent to which the project utilizes funds in the most efficient and effective manner to train employees. Each proposal that includes a SKILL project shall demonstrate that a reasonable effort has been made to investigate alternate training methods and has selected the most efficient and effective method of training;

(8) the extent to which funding from the IMPACT program services fund is essential to the training of the employees, the creation of the new jobs, or both;

(9) the extent to which the employer requesting assistance can continue in business at the levels necessary to retain the new jobs created for the periods indicated in its application if provided with the requested assistance;

(10) the extent to which the employer intends to continue its operations in Kansas for the periods indicated in its application;

(11) if an MPI is requested, the extent to which the project utilizes funds in the most efficient and effective manner to defray business costs;

(12) the extent to which the business costs to be defrayed and paid through an MPI are directly related to the creation of new jobs in Kansas; and

(13) the extent to which the financial assistance provided through an MPI will confer ben-

efits on the state, the community, local educational institutions or other persons or entities in addition to the benefits it will confer on the employer. (Authorized by K.S.A. 2009 Supp. 74-50,104, 74-50,106; implementing K.S.A. 2009 Supp. 74-50,104, 74-50,105, 74-50,106; effective, T-110-3-27-92, March 27, 1992; effective, T-110-7-23-92, July 23, 1992; effective Sept. 8, 1992; amended Aug. 29, 1997; amended Jan. 28, 2011.)

**110-4-3. Limit on maximum funding amount.** The limitation on program costs specified in K.S.A. 74-50,104(b), and amendments thereto, of the IMPACT act shall limit only the maximum funding amount for each qualified project and shall not limit the amount of project costs that are to be paid from sources other than the IMPACT program services fund. (Authorized by K.S.A. 2009 Supp. 74-50,104; implementing K.S.A. 2009 Supp. 74-50,104, 74-50,105; effective, T-110-3-27-92, March 27, 1992; effective, T-110-7-23-92, July 23, 1992; effective Sept. 8, 1992; amended Aug. 29, 1997; amended Jan. 28, 2011.)

**110-4-4. Enforcement of agreements by the secretary.** Each agreement, as defined by K.S.A. 74-50,103 and amendments thereto, shall be enforced by the secretary. In order to facilitate enforcement by the secretary, each agreement shall include the department as a party to the agreement with enforcement rights. (Authorized by K.S.A. 2009 Supp. 74-50,104; implementing K.S.A. 2009 Supp. 74-50,104, 74-50,105; effective, T-110-3-27-92, March 27, 1992; effective, T-110-7-23-92, July 23, 1992; effective Sept. 8, 1992; amended Aug. 29, 1997; amended Jan. 28, 2011.)

**110-4-5. Compliance with K.S.A. 74-50,106(d), and amendments thereto.** (a) Each employer receiving financial assistance through an MPI shall comply with K.S.A. 74-50,106(d) and amendments thereto. For purposes of complying with K.S.A. 74-50,106(d)(1) and amendments thereto, the employer shall make an investment in training and education of the employer's employees in each of the employer's fiscal years during the term of the agreement.

(b) Training and education expenditures that qualify for compliance with K.S.A. 74-50,106(d)(1), and amendments thereto, shall include those expenditures made for all necessary and incidental costs of providing the following:

(1) New jobs training, including training development costs;

(2) adult basic education and job-related instruction;

(3) vocational and skill-assessment services and testing;

(4) training materials and supplies;

(5) subcontracted services with educational institutions, private colleges or universities, or federal, state, or local agencies;

(6) contractual or professional services; and

(7) wages paid to persons receiving education or training, but only for the periods during which the person is receiving classroom training. (Authorized by and implementing K.S.A. 2009 Supp. 74-50,104 and 74-50,106; effective Aug. 29, 1997; amended Jan. 28, 2011.)

#### Article 6.—HIGH PERFORMANCE INCENTIVE PROGRAM

**110-6-1.** (Authorized by and implementing K.S.A. 1999 Supp. 74-50,131, as amended by L. 2000, ch. 157, sec. 8; effective, T-110-8-17-93, Aug. 17, 1993; effective Nov. 15, 1993; amended, T-110-4-25-00, April 25, 2000; amended Feb. 23, 2001; revoked Sept. 13, 2013.)

**110-6-1a.** (Authorized by K.S.A. 1999 Supp. 74-50,115, as amended by L. 2000, ch. 157, sec. 6 and K.S.A. 74-50,131, as amended by L. 2000, ch. 157, sec. 8; implementing K.S.A. 1999 Supp. 74-50,115, as amended by L. 2000, ch. 157, sec. 6, K.S.A. 74-50,131, as amended by L. 2000, ch. 157, sec. 8, and K.S.A. 1999 Supp. 74-50,132; effective, T-110-4-25-00, April 25, 2000; effective Feb. 23, 2001; revoked Sept. 13, 2013.)

**110-6-2.** (Authorized by and implementing K.S.A. 1999 Supp. 74-30,131, as amended by L. 2000, ch. 157, sec. 8; effective, T-110-8-17-93, Aug. 17, 1993; effective Nov. 15, 1993; amended, T-110-4-25-00, April 25, 2000; amended Feb. 23, 2001; revoked Sept. 13, 2013.)

**110-6-3.** (Authorized by K.S.A. 1999 Supp. 74-50,131, as amended by L. 2000, ch. 157, sec. 8; implementing K.S.A. 1999 Supp. 74-50,131, as amended by L. 2000, ch. 157, sec. 8 and K.S.A. 1999 Supp. 74-50,132; effective, T-110-8-17-93, Aug. 17, 1993; effective Nov. 15, 1993; amended, T-110-4-25-00, April 25, 2000; amended Feb. 23, 2001; revoked Sept. 13, 2013.)

**110-6-4.** (Authorized by K.S.A. 1999 Supp. 74-50,131, as amended by L. 2000, ch. 157, sec. 8; implementing K.S.A. 1999 Supp. 74-50,131, as

amended by L. 2000, ch. 157, sec. 8 and K.S.A. 1999 Supp. 74-50,133; effective, T-110-8-17-93, Aug. 17, 1993; effective Nov. 15, 1993; amended, T-110-4-25-00, April 25, 2000; amended Feb. 23, 2001; revoked Sept. 13, 2013.)

**110-6-5.** (Authorized by and implementing K.S.A. 1999 Supp. 74-50,131, as amended by L. 2000, ch. 157, sec. 8; effective, T-110-8-17-93, Aug. 17, 1993; effective Nov. 15, 1993; amended, T-110-4-25-00, April 25, 2000; amended Feb. 23, 2001; revoked Sept. 13, 2013.)

**110-6-6.** (Authorized by and implementing 1993 SB 73, section 1 (b); effective, T-110-8-17-93, Aug. 17, 1993; effective Nov. 15, 1993; revoked Sept. 13, 2013.)

**110-6-7.** (Authorized by and implementing L. 1993, Chap. 172, Sec. 1; effective Nov. 15, 1993; revoked Sept. 13, 2013.)

**110-6-8. Definitions.** As used in this article and for purposes of administering HPIP, the following terms shall have the following meanings:

(a) “Alternative wage standard” means one and one-half times the state average wage and is updated annually on the department’s web site, based on data maintained by the Kansas secretary of labor. An alternative wage standard may be used only after subtracting all employees with five percent equity in the business from all internal wage calculations, as provided by K.S.A. 74-50,131(e) and amendments thereto.

(b) “Applicant” means a legal entity seeking to certify a qualified firm through the HPIP application process.

(c) “Average internal wage” means the wage computed for the employees attached to a worksite and shall be calculated by one of the following methods:

(1) Dividing the average headcount of part-time plus full-time employees at the worksite as reported on the “quarterly wage report and unemployment tax return” or “multiple worksite report” for the measurement period into total payroll costs that have been paid over the same measurement period; or

(2) dividing the number of FTE employees into total payroll costs that have been paid over the same measurement period.

(d) “Back-office operation” means a wholly owned company worksite location that meets all of the following criteria:

(1) The main activities are functions that support the core focus of the business.

(2) Support activities are performed for other company-owned worksites in which the company has more than 50 percent equity.

(3) The worksite could have been geographically located anywhere.

(e) “Certificate of intent to invest” means a project description form.

(f) “Certification period” means the interval during which a worksite is eligible to receive HPIP benefits according to K.A.R. 110-6-11.

(g) “Combined worksite” means two or more worksites referenced on the same application according to K.A.R. 110-6-11.

(h) “Commence investment” means to make a formal commitment and to invest, with both actions being directly connected to the project description form previously submitted to the department.

(i) “Commercial customer” means an organized entity that engages in the manufacture or sale of products or the provision of services to other entities or individuals.

(j) “Core focus” means an activity that is designated by the NAICS code number assigned to a company and produces more than 50 percent of a company’s revenue.

(k) “Department” means Kansas department of commerce.

(l) “Formal commitment to invest,” for a company, means one or both of the following:

(1) The company relocates assets that it already owns to Kansas from an out-of-state location.

(2) The company enters into a written agreement that provides either party with legally enforceable remedies if the agreement is breached.

(m) “Fully operational,” when used to describe a new worksite, means that the worksite is performing substantially all major core focus functions.

(n) “Full-time-equivalent employees” and “FTE employees,” for purposes of calculating internal average wage during a measurement period, shall include leased employees and shall be computed by the following method:

(1) The number of hours worked by any permanent employees who normally work fewer than 40 hours per week shall be totaled and then divided by 2,080 hours, dropping any fractions.

(2) The result of paragraph (n)(1) then shall be added to the average number of employees who



normally worked 40 or more hours per week during the measurement period.

(o) "Government customer," as used in the act, means an organization that is not a related taxpayer, as defined by K.S.A. 79-32,154(h) and amendments thereto, and meets one of the following conditions:

(1) Is classified in major NAICS code sections 922 through 928; or

(2) is a customer that is funded primarily with tax dollars and is not classified as a for-profit or a not-for-profit organization.

(p) "Gross revenues," as used in K.S.A. 74-50,131 and amendments thereto, means that term as commonly used in financial and accounting applications under generally accepted accounting principles (G.A.A.P) in the United States.

(q) "Headquarters," as used in K.S.A. 74-50,131 (g)(6) and amendments thereto, means a worksite that meets all of the following conditions:

(1) The main activity at the worksite is providing direction, management, or administrative support for the operation of multiple company-owned worksites in which the applicant company has an ownership interest greater than 50 percent.

(2) The worksite is capable of being geographically located anywhere.

(r) "High-performance incentive program" and "HPIP" mean the department's incentive program that may provide tax benefits to a worksite pursuant to K.S.A. 74-50,131 and amendments thereto.

(s)(1) "HPIP source-of-revenue requirement" means the requirement for the types of businesses listed in K.S.A. 74-50,131(b), and amendments thereto, that more than 50 percent of total revenue at the worksite shall be generated from sales to any of the following:

(A) Kansas manufacturers assigned to major NAICS categories 311 through 339;

(B) out-of-state government customers;

(C) out-of-state commercial customers; or

(D) any combination of paragraphs (s)(1)(A) through (C).

(2) Revenues that shall be specifically excluded as eligible revenues under the HPIP source-of-revenue requirement are the following:

(A) Revenues generated as payment for medical services from Medicare, Medicaid, or any related administrative organizations; and

(B) revenues generated from medical services or products delivered to or used by individual patients, regardless of the source of payment.

(t) "KIT" means Kansas industrial training, as defined in K.S.A. 74-5065(a) and amendments thereto.

(u) "KIR" means Kansas industrial retraining, as defined in K.S.A. 74-5065(b) and amendments thereto.

(v) "Leased employees" shall include employees who meet the following criteria:

(1) Are engaged at the worksite pursuant to an agreement with a third party;

(2) are filling positions that are one year or longer in duration; and

(3) receive wages and benefits that are paid either directly or indirectly by the worksite where the leased employees are engaged.

(w) "Main activity" means an activity that utilizes more than 50 percent of the total square feet at a worksite or more than 50 percent of the total number of employees at a worksite.

(x) "Measurement period" and "MP" mean the four consecutive calendar quarters that a company shall use to meet and document satisfaction of the HPIP eligibility requirements.

(1) For a worksite expansion with an existing workforce, the MP shall be the four calendar quarters that immediately precede the selected certification period.

(2) For a new worksite with a new workforce, the MP shall be the first full four consecutive calendar quarters of operation at the new worksite.

(y) "Multinational corporation" and "multinational firm" mean a legal entity with at least one permanent worksite in the United States and one or more additional permanent worksites established in one or more other countries, with attendant personnel and owned or leased facilities, equipment, and infrastructure.

(z) "NAICS designation" means a six-digit designation in the North American industry classification system that identifies the main activities performed at a worksite. The NAICS designation is initially assigned to the worksite by the Kansas department of labor. At the request of the applicant, the Kansas department of labor's NAICS designation may be reviewed and adjusted by the secretary, if deemed appropriate, based upon the actual activity at the worksite.

(aa) "National corporation" and "national firm" mean a legal entity that has operations covering a broad geographical area within the U.S., with multiple permanent worksites wholly owned or affiliated with other legal entities, with attendant per-

sonnel and owned or leased facilities, equipment, and infrastructure.

(bb) “Nonmanufacturing business” means any commercial enterprise other than a manufacturing business assigned to major NAICS categories 311 through 339.

(cc) “On-the-job training” and “OJT” mean training situations during which a product or service that can be sold or used in internal operations is generated.

(dd) “Project description form” and “PD form” mean a form required as the first step to be able to access HPIP benefits. This form provides proof of foreknowledge of the HPIP program and shall be completed, signed, and submitted to the department before any formal commitment to invest.

(ee) “Qualified business facility investment” has the meaning specified in K.S.A. 79-32,154, and amendments thereto.

(ff) “Related taxpayer” has the meaning specified in K.S.A. 79-32,154, and amendments thereto.

(gg) “Sales to Kansas manufacturers,” as used in the act, means sales to organizations that are not related taxpayers, in which the purchased goods or services are paid for by the purchasing organization or its designated agent and the purchased goods or services are delivered within Kansas to a worksite assigned to major NAICS categories 311 through 339 by the Kansas department of labor. Sales orders and payments may originate from either inside or outside Kansas.

(hh) “Secretary” means secretary of commerce.

(ii) “Total payroll cost” means the payroll amount defined by the Kansas department of labor as “total wages” on line 12 of the “quarterly wage report and unemployment tax return” or the “multiple worksite report.” For a worksite, total payroll cost during the appropriate measurement period may be combined with any pretax earnings in which an employee has elected to direct to one of the following:

(1) A flexible-spending plan;

(2) a deferred compensation plan; or

(3) a retirement plan that includes earnings the employee would otherwise have received in the form of taxable wages had it not been for the voluntary deferral.

This term shall not include company-paid costs for health insurance, dental insurance, and any other employee benefits that are not reported to the Kansas department of labor on the employer’s

quarterly wage report or the multiple worksite report.

(jj) “Training and education eligible expense” means the amount actually paid for training and education of the group of employees, or portion thereof, that is used to determine the average wage at the worksite location, and from which the worksite expects to derive increased productivity or quality. The determination of expenditures that constitute training and education eligible expenses shall include the following:

(1) Eligible training and education expenditures shall include instructor salaries, curriculum planning and development, travel, materials and supplies, textbooks, manuals, minor training equipment, certain training facility costs, and any other expenditure that is eligible under KIT or KIR.

(2) The following other expenditures shall be allowable but shall be subject to maximum caps:

(A) Wages of employees during eligible training, up to a maximum of 400 percent of the applicable HPIP alternative wage standard hourly wage;

(B) employee instructors’ salaries, subject to a maximum of 400 percent of the applicable HPIP alternative wage standard hourly wage; and

(C) training-related travel expenses, with a maximum meals allowance of \$120 per day and lodging costs of \$300 per night.

(3) Expenditures for the following shall be excluded as training and education eligible expenses:

(A) Compensation paid to an employee trainee who is receiving on-the-job training;

(B) compensation paid to an employee during self-training, except for time in which the employee is involved in activities related to an approved computerized course of study;

(C) bonus pay received as compensation related to the company’s financial performance or the employee’s job performance, or both;

(D) overtime pay, unless the employee is being paid at an overtime rate while participating in eligible training;

(E) operations manuals and reference manuals. However, training-specific manuals shall be allowable; and

(F) training and education costs covered by monies or grants obtained from state, federal, or other government-sponsored workforce training programs.

(kk) “Wage standard” means the average wage information developed for the department for the

appropriate NAICS designation using all worksites located within a geographical area as defined by the secretary that are required to provide the Kansas department of labor with a “quarterly wage report and unemployment tax return” or a “multiple worksite report.”

(ll) “Worksite” has the same meaning as that specified for “qualified business facility” in K.S.A. 79-32,154, and amendments thereto. (Authorized by and implementing K.S.A. 2012 Supp. 74-50,131; effective Sept. 13, 2013.)

**110-6-9. Application.** (a) After the measurement period for a worksite has been established, the applicant may submit an application to the department for certification of the worksite, on a form prescribed by the secretary, together with all supplemental forms and documentation necessary to demonstrate satisfaction of the program requirements. Sufficiency of all submitted documentation shall be determined by the secretary, who may request additional information. A worksite shall not be certified until all program requirements are satisfied.

(b) Certification of the worksite in which the applicant is planning to make a qualified business facility investment, as defined by K.S.A. 79-32,154(e) and amendments thereto, shall be contingent on documentation submitted by the applicant to the department that the worksite has met all statutory criteria during the measurement period, except as specified in K.A.R. 110-6-12(b). However, a determination may be made by the secretary that it is in the best economic interests of the state to allow initial certification or recertification based on a promise of future performance, rather than historical accomplishments, if certification is deemed justified by the magnitude of potential job creation and investment and by other considerations deemed appropriate by the secretary. (Authorized by and implementing K.S.A. 2012 Supp. 74-50,131; effective Sept. 13, 2013.)

**110-6-10. Certification of a worksite.** Each applicant shall meet the following requirements:

(a) (1) The NAICS designation assigned to the worksite shall be under an appropriate NAICS designation, as specified in K.S.A. 74-50,131 and amendments thereto;

(2) the worksite, regardless of its NAICS designation, shall be determined by the secretary to be a headquarters or back-office operation of a

national firm or multinational firm pursuant to this article; or

(3) the worksite, regardless of its NAICS designation, had been certified as a headquarters or back-office operation of a national firm or multinational firm by the secretary before the effective date of this regulation. The worksite shall retain its certification as a headquarters or back-office operation of a national firm or multinational firm unless the worksite would no longer qualify using the criteria in effect for the original worksite certification.

(b) Before any formal commitment to invest, the applicant shall demonstrate knowledge of the HPIP program by submitting a certificate of intent to invest, on the PD form prescribed by the secretary. The worksite information provided on the PD form shall include the following:

(1) Estimated investment amounts;

(2) a projected starting date;

(3) information regarding current and anticipated net new job creation and retention with associated payroll levels;

(4) revenue and sales projections; and

(5) any other relevant information if requested by the secretary.

(c) Certification of a worksite for the sole purpose of utilizing an HPIP tax credit that has been carried forward shall not require the submission of an additional project description form and may be applied for with a sworn statement using a form prescribed by the department.

(d) If the main activity at a worksite is not related to the headquarters or back-office operation but all other program requirements are satisfied, the applicant may seek certification only for that portion of the worksite’s area that houses the headquarters or back-office operation of that worksite if the company’s accounting system has the capability to allow a segment of the worksite to independently track the various elements that support satisfaction of HPIP requirements.

HPIP benefits shall be calculated by determining the portion of a qualified business facility investment used solely for that portion of the worksite housing the headquarters or back-office operation.

(e) After meeting all HPIP requirements, the worksite shall be certified by the secretary to the department of revenue. Before a worksite may be certified, all records used to support HPIP certification shall be subject to verification by the department. (Authorized by and implementing



K.S.A. 2012 Supp. 74-50,131; effective Sept. 13, 2013.)

**110-6-11. Certification period (CP).** (a) After establishing the measurement period at the worksite, the applicant shall establish a certification period as follows:

(1) For a worksite that has been fully operational for at least four calendar quarters, a 12-month certification period shall begin, at the option of the applicant, on any date during the calendar quarter following the end of the MP.

(2) For a new worksite with a new workforce, the certification period shall begin at the onset of the eligible qualified capital investment to establish this worksite and shall continue for 12 months after the end of the MP. There may be two exceptions as follows:

(A) If, at the commencement of full operations, the new worksite is staffed with a workforce comprised of at least 85 percent of employees who have been relocated from other Kansas worksites of the company and if compliance with all other HPIP requirements is documented to the satisfaction of the secretary for the four calendar quarters immediately preceding the start of full operations, the applicant shall have the option to use the four calendar quarters before the start of full operations at the new location as its measurement period with a certification period starting at the onset of qualified capital investment to establish this new worksite. The certification period shall continue through the first four quarters of operations.

(B) A firm that is relocating from outside of Kansas shall have the option to use the four previous quarters before the start of full operations at the new worksite as its measurement period with a certification period starting at the onset of eligible capital investment to establish this new worksite and shall continue through the first four quarters of operations, if all of the following conditions are met:

(i) The new worksite is not subject to the HPIP source-of-revenue requirement and is using participation in KIT or KIR to satisfy the HPIP training requirement.

(ii) At the commencement of full operations, the new worksite is staffed with a workforce comprised of at least 85 percent of employees who have been relocated from non-Kansas facilities of the firm or from a combination of Kansas and non-Kansas facilities.

(iii) Wage costs for those relocated employees are documented to the satisfaction of the secretary for the four calendar quarters immediately preceding the start of full operations.

(b) If a company chooses to combine worksites for HPIP certification, then each worksite shall establish as its measurement period four combined calendar quarters of operations that do not overlap any other measurement period for any participating worksites. Certification shall begin on any date of the applicant's choosing during the quarter that follows the end of the measurement period and shall extend for a 12-month period.

(c) If worksites are combined in a single application to receive aggregate HPIP certification, then the applicable set of requirements shall consist of the most restrictive requirement for any of the individual worksites that are participating in the combined application, according to the following requirements:

(1) If any individual participating worksite is subject to the HPIP source-of-revenue requirement, then the combined worksite application as a whole shall be subject to the HPIP source-of-revenue requirement.

(2) If participating worksites come from more than one HPIP wage region, then the highest wage threshold from those wage regions shall apply for the participating worksites.

(3) If a headquarters or back-office operation is not required to satisfy the HPIP source-of-revenue requirement while another worksite is so required, then each participating worksite shall be required to satisfy this requirement.

(4) If worksites in the same wage area fall into different size categories, the most restrictive wage standard shall apply to each of the combined worksites.

(5) If each of the combined worksites has 500 or fewer employees but in aggregate the number of employees is greater than 500, then the higher wage threshold shall apply.

(d) Certification of a worksite for the sole purpose of obtaining training and education tax credits or a sales tax exemption certificate shall be allowed if both of the following conditions are met:

(1) All other program requirements are satisfied.

(2) The applicant demonstrates prior knowledge of the program by submitting the project description form. This form shall be received by the department before the start of the certification period. (Authorized by and implementing K.S.A.

2012 Supp. 74-50,115 and K.S.A. 2012 Supp. 74-50,131; effective Sept. 13, 2013.)

**110-6-12. Training and education requirement.** After a worksite has met the requirements of K.A.R. 110-6-10, that worksite shall meet the requirements of subsection (a) or (b) before the applicant obtains certification of the worksite:

(a) The applicant shall participate in a KIT or KIR workforce training project at the worksite to enhance employee skills. If this method is to be utilized in satisfaction of the HPIP training and education requirement, the timing of the project shall be one of the following:

(1) If a KIT or KIR project terminates during the applicant's chosen measurement period, at least three months of the training project shall have occurred during the measurement period.

(2) A KIT or KIR project of at least three months in duration commences any time during the applicant's chosen measurement period or during the following calendar quarter but shall not commence after the start of the certification period except as provided by K.A.R. 110-6-11(a)(2).

(b) The applicant shall make a cash investment of at least two percent of its total payroll costs at the worksite in eligible training and education expenses during the measurement period, except that costs incurred to train employees needed to staff a start-up worksite, before operations begin at the worksite, shall be counted as part of training costs during the first four quarters of operations for those employees who have been hired into permanent positions before the start of operations. Prepayment for training may be counted in a measurement period apportioned according to the extent that the related training has been completed during the measurement period. (Authorized by and implementing K.S.A. 2012 Supp. 74-50,131; effective Sept. 13, 2013.)

#### **Article 12.—AGRITOURISM PROMOTION ACT**

**110-12-1.** (Authorized by K.S.A. 2004 Supp. 74-50,173 and K.S.A. 2004 Supp. 74-5002r; implementing K.S.A. 2004 Supp. 74-50,165, 74-50,166, 74-50,167, 74-50,168, 74-50,169, 74-50,170, 74-50,171 and 74-50,172, and 74-50,173; effective April 8, 2005; revoked July 26, 2013.)

**110-12-2.** (Authorized by K.S.A. 2004 Supp. 74-50,173 and K.S.A. 2004 Supp. 74-5002r;

implementing K.S.A. 2004 Supp. 74-50,168; effective April 8, 2005; revoked July 26, 2013.)

**110-12-3.** (Authorized by and implementing K.S.A. 2004 Supp. 74-50,173; effective April 8, 2005; revoked July 26, 2013.)

**110-12-4.** (Authorized by and implementing K.S.A. 2004 Supp. 74-50,173; effective April 8, 2005; revoked July 26, 2013.)

**110-12-5.** (Authorized by K.S.A. 2004 Supp. 74-50,173 and K.S.A. 2004 Supp. 74-5002r; implementing K.S.A. 2004 Supp. 74-50,168; effective April 8, 2005; revoked July 26, 2013.)

**110-12-6.** (Authorized by K.S.A. 2004 Supp. 74-50,173 and K.S.A. 2004 Supp. 74-5002r; implementing K.S.A. 2004 Supp. 74-50,169; effective April 8, 2005; revoked July 26, 2013.)

#### **Article 21.—PROMOTING EMPLOYMENT ACROSS KANSAS (PEAK) PROGRAM**

**110-21-1. Definitions.** For the purposes of these regulations and the act, the following terms and definitions shall apply:

(a) "Adequate health insurance coverage" means health insurance that is offered by a company to all full-time employees within the first 180 days of their employment and provides for the following:

(1) At least 50 percent of the premium paid by the employer;

(2) coverage of basic hospital care and procedures;

(3) coverage of physician care;

(4) coverage for mental health care;

(5) coverage for substance abuse treatment;

(6) coverage for prescription drugs; and

(7) coverage for prenatal and postnatal care.

(b) "Administrative or back office" means a business facility that meets the following requirements:

(1) Is operated by a company;

(2) provides ancillary support services to the company, but is not directly engaged in the company's primary function;

(3) generates only de minimis outside revenue at the facility; and

(4) is capable of being located anywhere geographically.

(c) "Agreement" means an agreement entered into between the secretary and a qualified company as authorized by the act.

(d) “Agreement date” means the date the department of commerce receives a company’s application.

(e) “Applicant” means a company that has submitted an application to the secretary for determination of eligibility under the act.

(f) “Base employment level” means the average number of full-time employees in addition to any part-time employees calculated as full-time equivalent positions working 2,080 hours annually that existed in Kansas in the 12 months before the agreement date.

(g) “Benefit period” means the period of time during which a qualified company shall be authorized to retain withholding taxes for PEAK-eligible jobs.

(h) “Business facility” means each physical location in Kansas where any located, relocated, or expanded functions will be performed.

(i) “Effective date” means the date the benefit period commences. The effective date shall meet the following requirements:

(1) Be established by the qualified company in writing;

(2) be within one year of the date of the agreement; and

(3) begin on the first day of a calendar quarter.

(j) “Full-time employment” means an average of at least 35 hours per week for 52 consecutive weeks.

(k) “Functions” means the activities of a business facility, office, department, or other operation, including a unit or production line.

(l) “Headquarters” means the location of a business facility that meets the following requirements:

(1) Physically houses principal officers of the business;

(2) is where primary direction, management, and administrative support for company operations are provided;

(3) serves multiple company work sites internationally, nationally, or regionally within the United States;

(4) generates only de minimis outside revenue; and

(5) is capable of being located anywhere geographically.

(m) “Located or relocated functions” means functions that are being initially located or relocated to Kansas.

(n) “PEAK” means promoting employment across Kansas.

(o) “PEAK benefits” means the payroll withholding taxes authorized to be retained by a qualified company.

(p) “PEAK-eligible jobs” means PEAK jobs that are being paid at least the county median wage for the county in which the business facility is located and for which PEAK benefits are received.

(q) “PEAK job” means an employee-occupied job performing a located, relocated, or expanded function. PEAK jobs are used to satisfy program eligibility requirements including minimum jobs and wage standard comparison.

(r) “PEAK jobs’ median wage” means the middle wage of the total number of wages that divides the PEAK jobs into two equal groups, half having wages above the median wage and half having wages below the median wage. This term is used to determine initial eligibility for benefits, continued eligibility, and extended benefit periods.

(s) “Wages” has the meaning specified in K.S.A. 79-3295 and amendments thereto. (Authorized by K.S.A. 2010 Supp. 74-5002r and K.S.A. 2010 Supp. 74-50,213; implementing K.S.A. 2010 Supp. 74-50,211; effective April 29, 2011.)

**110-21-2. Eligibility and application requirements.** (a) Companies shall submit applications and any supporting documentation to the secretary to determine eligibility for benefits. In addition to meeting the requirements in the act, each applicant shall meet the following requirements:

(1) The application shall be submitted before any position for which PEAK benefits are requested may be filled.

(2) The PEAK jobs’ median wage shall meet or exceed the annual county median wage as reported by the department of labor in its annual report for the previous year for the county in which the business facility is located on the date the department receives the application.

(3) The company shall locate, relocate, or expand the minimum number of required jobs within two years from the agreement date.

(4) If an applicant applies as a headquarters, the business facility shall meet the definition of a headquarters.

(5) If applicant is applying as an administra-

tive or back office, the business facility shall meet the definition of an administrative or back office.

(b) The application shall include the following:

- (1) The applicant's legal name and address;
- (2) The applicant's North American industry classification system (NAICS) category;
- (3) the federal employer identification number (FEIN);
- (4) the physical address, contact information, NAICS category, and FEIN for all related entities, including the following:
  - (A) The corporate headquarters;
  - (B) the parent company;
  - (C) the business facility; and
  - (D) any existing Kansas work sites;
- (5) the type of ownership structure for the business facility;
- (6) a description of the function to be located, relocated, or expanded, including evidence of relocation satisfactory to the secretary;
- (7) a description of the company's products or services and its customers;
- (8) the hire or start date in Kansas for PEAK jobs;
- (9) the identification of any third-party legal employer;
- (10) the projected total number of PEAK jobs, including how many of those jobs are PEAK-eligible jobs;
- (11) the projected hiring schedule of PEAK jobs over five years;
- (12) the median wage of the PEAK jobs;
- (13) the total project capital investment, including leases;
- (14) the base employment level if relocating to or expanding at an existing Kansas company or work site;
- (15) the job title, description, number of positions, Kansas start or hire date, wages per hour, number of hours worked per week, and total annual wages for PEAK jobs;
- (16) if applicable, information regarding whether the applicant is performing either of the following:
  - (A) Locating, relocating, or expanding a company's headquarters; or
  - (B) locating, relocating, or expanding an administrative or back office;
- (17) certification that the applicant is "for-profit" unless applying as a headquarters or an administrative or back office;

(18) certification that the applicant will provide adequate health insurance coverage;

(19) certification that the applicant is not under the protection of the federal bankruptcy code;

(20) certification that the applicant is not delinquent on any federal, state, or local taxes;

(21) if applicable, payroll service company information as requested;

(22) an ownership disclosure and signature statement;

(23) the written authorization to inspect company records for verification of employment and wages;

(24) the certification by a company officer that the information provided in the application is true and accurate; and

(25) any other relevant information that the secretary deems necessary.

(c) If the application is approved by the secretary, the qualified company shall enter into an agreement with the secretary before receiving benefits. (Authorized by K.S.A. 2010 Supp. 74-5002r and K.S.A. 2010 Supp. 74-50,213; implementing K.S.A. 2010 Supp. 74-50,213; effective April 29, 2011.)

**110-21-3. Reconsideration of application.** (a) If an application is not approved, the reasons for the denial shall be provided to the applicant by the secretary. The applicant may ask the secretary for reconsideration of the decision within 30 days of the date of denial of the application.

(b) Decisions on reconsideration shall be the final agency action and subject to review under the Kansas judicial review act, K.S.A. 77-601 et seq. and amendments thereto. (Authorized by K.S.A. 2010 Supp. 74-5002r and K.S.A. 2010 Supp. 74-50,213; implementing K.S.A. 2010 Supp. 74-50,213; effective April 29, 2011.)

**110-21-4. Agreement.** (a) If an applicant meets the eligibility requirements and is approved by the secretary, the applicant shall be considered to be a qualified company. An agreement may be entered into by the secretary as to the terms and conditions by which the qualified company may receive benefits.

(b) The agreement shall be on a form prescribed by the department and, in addition to the requirements of the act, shall include the following:

- (1) A description of the project;
- (2) the length of the benefit period;



(3) the number of PEAK jobs, including projected PEAK jobs' median wage;

(4) the quarterly and annual reporting requirements;

(5) the agreement date;

(6) the county median wage for the business facility on the date the application is received by the department;

(7) an acknowledgement that the qualified company is ineligible to participate in other economic programs as listed in the act;

(8) the terms of default and conditions of repayment;

(9) a condition that the qualified company has one year from the agreement date to establish in writing an effective date;

(10) a condition that the qualified company shall satisfy program eligibility requirements and pay an average annual PEAK jobs' median wage greater than the county median wage in order to remain eligible for program benefits;

(11) a condition that the qualified company has two years from the agreement date to fill the minimum number of PEAK jobs necessary for program eligibility;

(12) a condition that the benefit period may be extended if the qualified company pays an average annual PEAK jobs' median wage of at least 110 percent as compared to the county median wage on the agreement date for each year that the company is in the program; and

(13) an acknowledgement that the qualified company receiving high-impact benefits that fails to create 100 or more jobs within two years of the agreement date shall have its benefit period reduced accordingly. (Authorized by K.S.A. 2010 Supp. 74-5002r and K.S.A. 2010 Supp. 74-50,213; implementing K.S.A. 2010 Supp. 74-50,213; effective April 29, 2011.)

**110-21-5. Reporting requirements.** (a) Each qualified company shall file quarterly and annual reports for the term of the agreement. The quarterly reports shall be due within 30 days from the end of each calendar quarter following the effective date. One year after the effective date, the qualified company shall provide an annual report summarizing the quarterly report data. The annual report shall be due within 30 days of each subsequent effective date.

(b) Each quarterly report and each annual report shall include the following:

(1) The company name, address, and federal employer identification number;

(2) the PEAK agreement number;

(3) the effective date;

(4) the reporting period; and

(5) the PEAK jobs' median wage for the period.

(c) Each quarterly report shall include the following for each employee:

(1) The job title;

(2) the employee's name;

(3) the last four digits of the social security number or position number;

(4) the date hired in Kansas and, if applicable, the date terminated;

(5) the wages paid per hour;

(6) the number of hours worked per week; and

(7) the total wages for the quarter.

(d) Each quarterly report shall include the following for all PEAK jobs:

(1) The individual amount of payroll withholding tax retained and the amount remitted to the department of revenue for each PEAK job;

(2) the total amount of payroll withholding tax retained and remitted to department of revenue for all PEAK jobs during the period; and

(3) any other relevant information as deemed necessary by the secretary, including the following:

(A) A copy of the qualified company's Kansas department of labor quarterly wage report and unemployment return, form K-CNS 100, for the period; and

(B) a copy of the qualified company's department of revenue monthly Kansas withholding tax deposit reports, form KW-5, for the period.

(e) Each annual report shall include the following:

(1) Total wages of PEAK jobs and PEAK-eligible jobs;

(2) the annual average number of PEAK jobs and how many of those jobs are PEAK-eligible jobs;

(3) the total payroll withholding taxes remitted to the department of revenue for the PEAK jobs and a separate total of five percent remitted for PEAK-eligible jobs;

(4) the total PEAK benefits for PEAK-eligible jobs for the period;

(5) the total capital investment for the period;

(6) the qualified company's certification that it continues to meet program eligibility require-

ments, including supplying requested documentation; and

(7) a copy of the company's department of revenue annual withholding tax deposit report, KW-3 form, as filed during the period. (Authorized by K.S.A. 2010 Supp. 74-5002r and K.S.A. 2010 Supp. 74-50,213; implementing K.S.A. 2010 Supp. 74-50,213; effective April 29, 2011.)

## **Article 22.—STUDENT LOAN REPAYMENT PROGRAM**

**110-22-1. Definitions.** As used in these regulations and for purposes of administering the act, the following terms shall have the meanings specified in this regulation: (a) "Act" means the rural opportunity zone act, L. 2011, ch. 22 and amendments thereto.

(b) "County" means a county listed as a "rural opportunity zone" in L. 2011, ch. 22, sec. 1(b), and amendments thereto.

(c) "Department" means the Kansas department of commerce.

(d) "Domicile" means the physical location where an individual intends to permanently reside. The following factors may be considered in determining whether or not an individual meets the eligibility requirements of the act, although none of these factors by itself shall be a determinant of domicile:

(1) Acceptance or an offer of permanent employment;

(2) admission to a licensed practicing profession in Kansas;

(3) registration of a vehicle in a county designated by the act;

(4) the location at which the individual votes or is registered to vote;

(5) a Kansas driver's license; and

(6) lease of living quarters or ownership of a home in a county designated by the act.

(e) "Eligible participant" means an individual who has met all eligibility requirements of the act.

(f) "Participating county" means a county, as defined in this regulation, that has enacted a resolution to participate in the student loan repayment program as specified in L. 2011, ch. 22, sec. 3, and amendments thereto.

(g) "Student loan repayment program" means the program specified in L. 2011, ch. 22, sec. 3, and amendments thereto. (Authorized by L. 2011, ch. 22, sec. 3 and K.S.A. 2010 Supp. 74-5002r; implementing L. 2011, ch. 22, secs. 1 and 3; ef-

fective, T-110-7-5-11, July 5, 2011; effective Oct. 28, 2011.)

**110-22-2. Application for student loan repayment program.** (a) Each applicant shall submit the application and any supporting documentation to the secretary to determine eligibility for the student loan repayment program.

(b) Each application shall contain the following for each applicant:

(1) Name;

(2) telephone and electronic mail address;

(3) current address and, if different, intended address;

(4) social security number;

(5) county of current residence or future intended domicile;

(6) list of all addresses where the applicant has resided during the five years immediately preceding the date of application;

(7) list of previous employers' names and addresses for the five years immediately preceding the date of application;

(8) prospective employer's name, address, and county;

(9) if applicable, proof of degree earned;

(10) anticipated date for moving to the county;

(11) a short description of why the individual intends to move to the county;

(12) if applicable, proof of a Kansas professional license;

(13) if applicable, the balance of each student loan on the date of submission of the application and the name and address of each loan institution; and

(14) any other relevant information that the secretary deems necessary.

(c) Notification that the applicant has applied for the student loan repayment program shall be electronically forwarded by the department to the county designated in that application.

(d) The county may, within 15 days of the department's electronic notification, provide any supplementary information regarding the applicant to the department for consideration. (Authorized by L. 2011, ch. 22, sec. 3 and K.S.A. 2010 Supp. 74-5002r; implementing L. 2011, ch. 22, sec. 3; effective, T-110-7-5-11, July 5, 2011; effective Oct. 28, 2011.)

## **110-22-3. Determination of eligibility.**

(a) A preliminary determination of whether each

applicant is eligible to participate in student loan repayment program shall be made by the secretary.

(b) For each preliminary determination of eligibility, the applicant and the county shall be notified by the department.

(c) If the applicant is initially approved as eligible, the applicant and the county shall be provided by the secretary with a preliminary determination setting forth the conditions for final program eligibility.

(d) Final program eligibility shall be conditioned upon applicant's submission of all requested documentation to the department, including the following:

- (1) Student loan documents;
- (2) transcript for an associate, bachelor's, or postgraduate degree; and
- (3) proof of having established domicile in the participating county.

(e) If the applicant meets the requirements for preliminary determination, a determination of final eligibility for the resident individual to participate in the student loan repayment program shall be issued by the secretary.

(f) Any applicant or county may appeal a preliminary or final determination of eligibility by the secretary as specified in these regulations. (Authorized by L. 2011, ch. 22, sec. 3 and K.S.A. 2010 Supp. 74-5002r; implementing L. 2011, ch. 22, sec. 3; effective, T-110-7-5-11, July 5, 2011; effective Oct. 28, 2011.)

**110-22-4. Appeal process.** (a) If an application for preliminary determination is not approved or if final eligibility determination is denied, each reason for the denial shall be provided in writing to the applicant by the secretary. The applicant may ask for reconsideration of either the preliminary determination or final eligibility determination within 30 calendar days after the date of the decision. If the applicant does not ask for reconsideration within 30 calendar days of the date of the decision, the decision shall become a final agency action. The county shall be notified of any application denied by the secretary.

(b) The county may ask for reconsideration of the decision of the secretary within 30 calendar days after the date of either the preliminary determination or final eligibility determination. If the county does not ask for reconsideration within 30 calendar days of the date of the secretary's decision, the decision shall become a final agency action.

(c) Each decision on reconsideration shall be the final agency action and shall be subject to review under the Kansas judicial review act, K.S.A. 77-601 et seq. and amendments thereto. (Authorized by L. 2011, ch. 22, sec. 3 and K.S.A. 2010 Supp. 74-5002r; implementing L. 2011, ch. 22, sec. 3; effective, T-110-7-5-11, July 5, 2011; effective Oct. 28, 2011.)

**110-22-5. Resolution by county; intent to participate in student loan repayment program.** (a) As required by the act, each county intending to participate in the student loan repayment program shall provide the department with a copy of the county resolution. The county resolution shall contain the following statements:

(1) The county is listed as a rural opportunity zone, as defined by L. 2011, ch. 22, sec. 1 and amendments thereto.

(2) The county is obligated to participate in the student loan repayment program for an enrollment period of five years.

(3) The county obligation to each eligible participant is for a repayment period of five years.

(4) The county agrees to pay, with the state of Kansas, equal shares of the outstanding student loan balance of any eligible participant.

(5) The student loan balance for each eligible participant, in an amount not to exceed \$15,000, will be repaid jointly by the county and the state of Kansas for a period of five years.

(6) The county will allocate monies for the purpose of matching payments from the state of Kansas to eligible participants.

(7) The county will revise its student loan repayment budget on an annual basis and inform the department of any changes to the annual allocation.

(b) Each resolution shall be published once in the official county newspaper and shall be in effect from the date of its publication. (Authorized by L. 2011, ch. 22, sec. 3 and K.S.A. 2010 Supp. 74-5002r; implementing L. 2011, ch. 22, sec. 3; effective, T-110-7-5-11, July 5, 2011; effective Oct. 28, 2011.)

**110-22-6. Repayment of outstanding student loan balance.** (a) Each participating county shall transmit funds to the department for repayment of the student loan within 30 calendar days after the end of each calendar year. Each participating county and each eligible participant shall be notified by the department of receipt of the funds.

(b) The following shall be performed by the department:

(1) Transmission of the state funds and participating county funds to the lending institution for repayment of each eligible participant's student loan;

(2) payment to the lending institution of the student loan repayment funds, which shall be within 30 calendar days of receipt of funds from the participating county; and

(3) notification to each participating county

and eligible participant of the transmitted student loan payment.

(c) Repayment of student loan funds may be made directly to the eligible participant if both of the following conditions are met:

(1) The student loan has been paid in full during the preceding 12 months.

(2) The eligible participant has no other student loan debt. (Authorized by L. 2011, ch. 22, sec. 3 and K.S.A. 2010 Supp. 74-5002r; implementing L. 2011, ch. 22, sec. 3; effective Oct. 28, 2011.)